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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/632,573 | 08/04/2000 | Rainer Siebert | 15675.P299x | 1726 |
| 7590 | 05/12/2004 | | EXAMINER | |
| Blakely Sokoloff Taylor & Zafman LLP 12400 Wilshire Boulevard 7th Floor Los Angeles, CA 90025-1026 | | | | STARSIAK, JOHN S |
| | | ART UNIT | PAPER NUMBER | 1753 |

DATE MAILED: 05/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------|------------------------|---------------------|
| Advisory Action | Application No. | Applicant(s) |
| | 09/632,573 | SIEBERT ET AL. |
| | Examiner | Art Unit |
| | John S. Starsiak Jr. | 1753 |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) The period for reply expires 5 months from the mailing date of the final rejection.

b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. The proposed amendment(s) will not be entered because:

- they raise new issues that would require further consideration and/or search (see NOTE below);
- they raise the issue of new matter (see Note below);
- they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. Applicant's reply has overcome the following rejection(s): _____.

4. Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. The a) affidavit, b) exhibit, or c) request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

6. The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. For purposes of Appeal, the proposed amendment(s) a) will not be entered or b) will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-13 and 16-40.

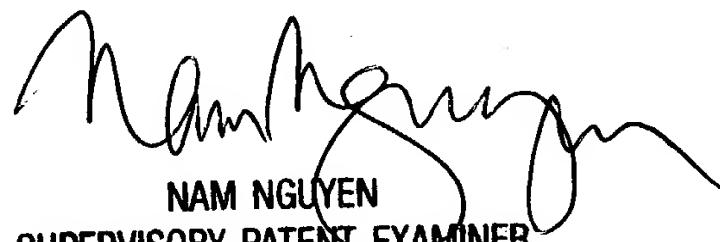
Claim(s) withdrawn from consideration: _____.

8. The drawing correction filed on 22 March 2004 is a) approved or b) disapproved by the Examiner.

9. Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.

10. Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: 1.) the proposed additional drawings fail to properly illustrate the claimed features. For example, the illustration of the means for filling the capillaries is a crude schematic drawing which fails to an operative means for filling the capillaries, e.g. if the the means for filling the capillaries includes a chamber surrounding the ends of the capillaries, how is an electric field applied across the capillaries during the electrophoretic separation? 2.) the new drawings (crude schematics) and four sentences added to the written description of the invention fails enable claims 9,10, 31, and 32. For example, even with the proposed amendments the written description of the invention fails to describe how an electric field will be applied to the capillaries in embodiments with a means for filling the capillaries with medium. For example, assuming conventional structure for a capillary electrophoresis apparatus, where is the electrode(s) and buffer reservoir(s) near the exit ends of the capillaries located. Similarly, assuming conventional capillary electrophoresis structure (i.e. a buffer chamber at the exit end of the capillary array) where is either the prism or the diffraction grating located. Is the dispersion means inside the buffer chamber or outside the buffer chamber. If the invention does not use a conventional buffer chamber at the exit end of the capillary array, how is the electric field along the longitudinal axis of the capillaries created? In addition the additions contain typographical errors such as "Figure 19 illustrates the embodiment illustrated in Figure with the". 3.) in claim 1, there is still no antecedent basis for "the medium inside the capillaries". 4.) the mere substitution of "a" for "the" fails to overcome the lack of antecedent basis of "the refractive index" and "the media outside of the capillaries", i.e. "a refractive index" implies the possible of more than one refractive index. 5.) the applicant fails to specifically point out how the amendments to the claims remove the indefiniteness of the claims. 6.) the amendments actually add new indefiniteness to the claims, e.g. claim 5 now recites "means for producing multiple focusing of a beam on a linear array of capillaries". A beam of what ? It appears that "a beam" corresponds to "a beam" recited in claim 1 and "a linear array of capillaries" corresponds to "at least one linear array" recited in claim3.



NAM NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

John S. Starsiak Jr.
07 May 2004